

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HENRY A. CARDENAS,)
)
Plaintiff,) FILED: APRIL 25, 2008
) 08CV2452 LI
v.) JUDGE ASPEN
) MAGISTRATE JUDGE BROWN
CITY OF CHICAGO and unnamed)
POLICE OFFICERS,)
)
Defendants.)

COMPLAINT

NOW COMES, Plaintiff, HENRY A. CARDENAS, by and through his attorneys, Katz Law Office, Ltd., and in support of his Complaint against Defendants City of Chicago and unnamed Police Officers, he states as follows:

1. This is an action for damages for the Defendants' wrongful entry, arrest, and taking with respect to Defendants' statutorily violative and illegal search of plaintiff's home on June 17, 2007, seizure of Plaintiff's property, and the City of Chicago Police Department's subsequent failure to return plaintiff Henry Cardenas' property.

2. Plaintiff is seeking compensatory and punitive damages from the Defendant City of Chicago and its police officers for violating 42 U.S.C. § 1983 by acting under color of state law to deprive Plaintiff of his right to be free from unreasonable search and seizure under the Fourth Amendment and his right to bear arms under the Second Amendment of the United States Constitution.

3. Plaintiff is seeking compensatory damages from Defendant City of Chicago and its police officers for its actions under color of state law which deprived Plaintiff of his rights under the United States Constitution to procedural and substantive due process.

4. Plaintiff is seeking the return of his wrongfully confiscated property.

PARTIES AND JURISDICTION

5. Plaintiff Henry A. Cardenas was the victim of illegal search and seizure and subsequent arrest by officers of the Chicago Police Department.

6. Defendants unnamed Police Officers were the perpetrators of the illegal search, seizure, and arrest.

7. Defendant City of Chicago is the municipal body under whose authority Defendant Police Officers professed to act, and City of Chicago is the municipal authority who failed to return Plaintiff's property.

8. Venue is proper in this judicial district under 28 U.S.C. §1391(b).

9. This Court has personal jurisdiction over Defendants under 735 ILCS 5/2-209(b)(2).

COUNT I - 42 U.S.C. § 1983 DEPRIVATION OF RIGHTS BY CITY OF CHICAGO AND UNNAMED POLICE OFFICERS WHEN SEARCHING AND SEIZING PLAINTIFF'S PROPERTY AND SUBSEQUENTLY ARRESTING PLAINTIFF

10. Plaintiff repeats and re-alleges paragraphs 1-9 as though fully set forth herein.

11. Plaintiff Cardenas resides at 3453 West 38th Street, 2nd Floor, Chicago, Illinois.

12. On or about June 17, 2007, Chicago Police Officers arrived at Plaintiff's residence at about 6:00 a.m. inquiring if a 17 year old was residing at Plaintiff's home.

13. Police officer's knocked at the door of Plaintiff's 2nd Floor residence.

14. When Plaintiff's wife opened the door, a police officer walked in without authorization and began searching Plaintiff's home.

15. Shortly thereafter more police officers entered Plaintiff's home without consent and continued to search through the house.

16. The police officers entered Plaintiff's home without consent and without a warrant.

17. The police officers found thirteen of Plaintiffs firearms in the house.

18. Plaintiff was taken into custody and so were thirteen of his weapons.

19. On September 11, 2007, a Judge from the Circuit Court of Cook County dismissed the 13 counts against Plaintiff because none of the police officers showed up to court. The judge refused to return Plaintiff's weapons.

**COUNT II - 42 U.S.C. § 1983 DEPRIVATION OF RIGHTS BY CITY OF CHICAGO
WHICH HAS AN UNOFFICIAL POLICY OF NOT DISCIPLINING OFFICERS
WHO ABUSE POLICE AUTHORITY**

20. Plaintiff repeats and re-alleges paragraphs 1-19 as though fully set forth herein.

21. The City of Chicago Police Department regularly fails to discipline its own officers for such behavior, as it did in this instance with the Defendants. By failing to discipline its officers in such situations, the City of Chicago Police Department condones and allows this type of abuse of power from its officers.

22. The condoning and allowing of such abuse of power constitutes a custom or unofficial policy of granting police officers liberties and allowing them to abuse their position as police officers, confident that they will be shielded from consequences by fellow officers.

23. The Defendants were not disciplined for their unreasonable search and seizure and for the subsequent unwarranted arrest of Plaintiff.

**COUNT III – FOURTH AMENDMENT VIOLATION BY CITY OF CHICAGO AND
UNNAMED POLICY OFFICERS OF PLAINTIFF'S RIGHT TO NOT BE SUBJECTED
TO UNREASONABLE SEARCH AND SEIZURE**

24. Plaintiff repeats and realleges paragraphs 1-23 as though fully set forth herein.

25. Defendants had no warrant to search Plaintiff's residence.

26. Defendants did not have Plaintiff's consent to enter or search his residence.
27. Defendants had no probable cause to search Plaintiff's residence.
28. There was no evidence indicating presence of an emergency, exigent circumstances, or physical danger which justified Defendant's warrantless entry.
29. Defendants searched Plaintiff's property.
30. Defendant took Plaintiff into custody and seized thirteen of his weapons.

COUNT IV – SECOND AMENDMENT VIOLATION OF RIGHT TO BEAR ARMS BY CITY OF CHICAGO AND UNNAMED POLICY OFFICERS

31. Plaintiff repeats and realleges paragraphs 1-30 as though fully set forth herein.
32. Plaintiff has a FOID card (Firearm Owners Identification), which he showed to Defendants.
33. Defendants refuse to return Plaintiff's guns.
34. Defendants seized Plaintiff's guns during an unreasonable search and seizure of Plaintiff's residence.
35. Defendants are depriving Plaintiff of his right to bear arms.

WHEREFORE, Plaintiff, HENRY A. CARDENAS, prays that this Honorable Court enter judgment in his favor and against Defendants CITY OF CHICAGO and UNNAMED POLICE OFFICERS, and award Plaintiff compensatory damages, punitive damages, costs and expenses, the return of Plaintiff's property, and for such other relief as this Court deems just.

Respectfully Submitted,

/s/ Gina L. Reynolds

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